

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

ROSARIO PASSMORE,  
INDIVIDUALLY AND ON BEHALF OF  
ALL OTHERS SIMILARLY SITUATED;  
BRENDA L. CHAFTON,  
INDIVIDUALLY AND ON BEHALF OF  
ALL OTHERS SIMILARLY SITUATED;  
MARIA WEAKS, JO ANN VEGA,  
KELLY SLAPE,

SA-18-CV-00782-FB

*Plaintiffs,*

VS.

SSC KERRVILLE HILLTOP VILLAGE  
OPERATING COMPANY LLC, SSC  
KERRVILLE EDGEWATER  
OPERATING COMPANY, LLC, SSC  
KERRVILLE ALPINE TERRACE  
OPERATING COMPANY, LLC,

### *Defendants.*

## **ORDER**

Before the Court in the above-styled cause of action is the parties' Joint Motion for Leave to File Settlement Document under Seal and for Preliminary Approval of FLSA Settlement and Brief in Support [#65]. By their motion, the parties inform the Court that they have reached a settlement of the pending unpaid overtime claims arising under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* ("FLSA") and Texas law asserted in this case. The parties ask the Court for permission to file their settlement agreement under seal for the Court's review in order to keep its contents confidential, for preliminary approval of the agreement and notice to eligible class members, and the appointment of a settlement administrator. The Court will lift the previously

issued stay, grant the motion, issue the requested relief, and dismiss the pending motion for conditional certification as mooted by the settlement.

**IT IS THEREFORE ORDERED** that the Court's previous stay of this case is hereby **LIFTED**.

**IT IS FURTHER ORDERED** that the parties' Joint Motion for Leave to File Settlement Document under Seal and for Preliminary Approval of FLSA Settlement and Brief in Support [#65] is **GRANTED**.

**IT IS FURTHER ORDERED** that Plaintiffs' Opposed Motion for Expedited Conditional Certification of a Collective Action and to Authorize Judicially-Supervised Notice Under Section 216(b) and Brief in Support [#21] is **DISMISSED AS MOOT** without prejudice to refiling if the settlement is not finalized.

**IT IS FURTHER ORDERED** that the parties' Settlement Agreement and Release [#65-1] shall be **filed under seal** and the Clerk of Court is hereby instructed that the sealed document discussed in this Order is to be excluded from the electronic docket as well as the public case file. All physical copies of the sealed documents discussed in this Order shall be destroyed or returned to counsel for Defendants within ten (10) days after the Court enters any Order dismissing this action with prejudice.

**IT IS FURTHER ORDERED** that the Court preliminarily **approves** the proposed Settlement Agreement and Release signed by Plaintiffs and Defendants pending a final fairness hearing. The Court preliminarily finds that the settlement on the terms in the Agreement is a fair and reasonable compromise of a bona fide dispute, and that such settlement is in the best interest of the FLSA Settlement Class. The Court further finds that the settlement as proposed in the Agreement resulted from arms'-length negotiations.

**IT IS FURTHER ORDERED** that ILYM Group, Inc. is hereby **appointed** to serve as Settlement Administrator. ILYM Group, Inc. is authorized to mail and e-mail the respective approved Notice of FLSA Settlement and further administer the settlement in accordance with the terms of the Agreement and this Order. The Settlement Administrator shall also be authorized to post the Settlement Claim Form attached to the Settlement Agreement as Exhibit “4” to the website KerrvilleOvertimeLawSuit.com.

**IT IS FURTHER ORDERED** that the Court hereby **approves** the mail, e-mail, and text message Notices of Settlement, appended to the Agreement as Exhibits 1 through 3. The Court finds that the form and method for notifying the FLSA class meets the requirements of the FLSA; that the form is the best notice practicable under the circumstances; and that the proposed content and methods of notice constitute due and sufficient notice to all persons entitled to notice. No later than ten (10) business days after the date that the Settlement Administrator receives the list of FLSA Class Members from Defendants, the Settlement Administrator shall cause the Notices of Settlement (Exhibits 1 and 2) to be mailed via first-class United States mail and e-mailed to all members of the FLSA class. Plaintiffs’ counsel shall also send Notice via text message (Exhibit 3).

**IT IS FINALLY ORDERED** that this case will be set for a Final Fairness Hearing once the parties have completed the preliminary steps outlined in their agreement. At the Final Fairness Hearing, the Court will consider final certification of the FLSA settlement class; the fairness, reasonableness, and adequacy of the proposed settlement; entry of a final order of approval and judgment; and other related matters. The parties should therefore file a joint request for a Final Fairness Hearing once they have completed all necessary preliminary steps.

**IT IS SO ORDERED.**

SIGNED this 25th day of July, 2019.



The image shows a handwritten signature in black ink, appearing to read "Ely S. Chestney". Below the signature, there is printed text identifying the signer.

ELIZABETH S. ("BETSY") CHESTNEY  
UNITED STATES MAGISTRATE JUDGE